Supreme Court, U.S.
FILED

No. 03-315 SEP 19 2003

OFFICE OF THE CLERK

In The

Supreme Court Of The United States

October Term, 2003

DEOWRAJ BUDDHU,

Petitioner,

v.

STATE OF CONNECTICUT,

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE
STATE OF CONNECTICUT

PETITION FOR WRIT OF CERTIORARI (WITH ATTACHED APPENDIX)

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QUESTIONS PRESENTED

DID THE CONNECTICUT SUPREME COURT PROPERLY CONCLUDE THAT THE SEARCH WARRANT IN QUESTION SATISFIED THE PARTICULARITY REQUIREMENT OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION?

TABLE OF CONTENTS

QUESTIONS PRESENTED.....i

TABLE OF CONTENTS.....ii

TABLE OF AUTHORITIES.....iii

OPINIONS BELOW.....1

PETITION FOR CERTIFICATION.....1

JURISDICTION.....1

STATEMENT OF THE CASE.....2

REASONS FOR GRANTING WRIT.....3

THE CONNECTICUT SUPREME COURT'S DECISION DIRECTLY CONFLICTS WITH THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND THE DECISIONS OF SEVERAL UNITED STATES COURT OF APPEALS AND THE COURT'S DECISION IN MARYLAND V. GARRISON.

CONCLUSION.....14

APPENDIX.....A-1-52

TABLE OF AUTHORITIES

CASES **Page**

Garrision v. State, 58 Md. App. 417, 427, 437 A.2d 193 (1985, rev'd, 480 U.S. 79, 107 A.Ct. 1013, 94 L.Ed. 2d 72 (1987).....13

Maryland v. Garrison, 480 U.S. 79, 107 S.Ct. 1013, 94 L. Ed. 2d 72 (1987).....10, 13

State v. Abbott, 5 Conn. App. 441, 447, 499 A.2d 437 (1985).....11, 12

State v. Buddhu, 65 Conn. App. 104 (2001).....

State v. Buddhu, 264 Conn. 449 (2003).....13

State v. Burgos, 7 Conn. App. 265, 508 A.2d 795 (1986)..11

State v. Vilalastra, 540 A.2d 42, 207 Conn. 35 (Conn. App. 1988).....11

Steele v. United States, No. 1, 267 U.S. 498, 503, 45 S.Ct. 414, 416, 69 L.Ed. 757 (1925).....10

United States v. Fitzmaurice, 45 F.2d 133 (2d Cir. 1930).....12

United States v. Higgins, 428 F.2d 232 (7th Cir. 1970).....9

United States v. Hinton, 219 F.2d 324 (7th Cir. 1955).....9

U.S. v. Shameizader, 80 F.3d 1131, 1138 (6th Cir. 1996)..10

STATUTES

28 U.S.C. 1257.....1

CONSTITUTIONAL PROVISIONS

Fourth Amendment to the United States Constitution 8, 9, 10

Article First, § 7, of the Connecticut Constitution.....8

PETITION FOR WRIT OF CERTIORARI

Deowraj Buddhu respectfully prays that a writ of certiorari issue to review the opinion of the Supreme Court of the State of Connecticut entered in this proceeding on June 24, 2003, in order to resolve the conflict between the ruling of the Connecticut Supreme Court and the holdings of the Appellate Courts of the United States and the Fourth Amendment to the United States Constitution and the Court's Ruling in Maryland v. Garrison.

OPINIONS BELOW

The opinion of the Supreme Court that gives rise to this petition is published as State of Connecticut v. Deowraj Buddhu, 264 Conn. 449 (2003). The decision of the Connecticut Appellate is published as State of Connecticut v. Deowraj Buddhu 65 Conn App. 104 (2001).

JURISDICTION

The Superior Court of the State of Connecticut, Espinoza, J. granted the defendant Motion to Suppress and the State of Connecticut appealed to the Appellate Court of the State of Connecticut which on August 14, 2001, affirmed the trial court's ruling. On Petition for Certification to the Connecticut Supreme Court the court overruled the Appellate and Trial Court's rulings and remanded the case to the trial court. The Jurisdiction of the Court is invoked pursuant to Rule 10 of the Supreme Court Rules as this is an appeal from

the court of last resort for the State of Connecticut and 28 U.S.C. § 1257.

STATEMENT OF THE CASE

On January 22, 1999, the defendant was arrested pursuant to a warrant, which charged in140 separate counts the crimes of first-degree larceny, attempt to commit first degree larceny, second degree money laundering, second-degree forgery, attempted second-degree forgery, conspiracy to commit racketeering and racketeering. The offenses charged were based on the State's belief that the defendant was involved in a criminal enterprise, engaged in the creation of counterfeit checks and the sale of counterfeit United States citizenship papers. The arrest was based on evidence seized pursuant to a search warrant issued by Judge Phillip R. Dunn, on November 21, 1995, more than three years prior to the defendant's arrest.[1]

On June 10, 1999, the state filed a Substitute Information and Bill of Particulars, charging the defendant with 142 violations of the penal code.[2]

1

Satesh Buddhu and Michael Casati were arrested at the time of the execution of the search and seizure warrants on their respective homes in 1995. Defendant was not arrested until January 22, 1999, more than three years later.

2

The defendant was charged in a substitute information with the following alleged violations: one count of violating C.G. S. § 53a 8(a), 53a-119 and 53a-122, Accessory to larceny in the first degree; one

The defendant filed a Motion to Suppress Evidence obtained during the subject search, alleging that the search warrant was not supported by probable cause, the search warrant was not sufficiently particular to meet constitutional muster, and the information contained in the warrant application was stale. The court, Espinosa, J., granted the defendant's Motion to Suppress on all grounds and also found that the execution of the search warrant was constitutionally defective.

The State filed a motion to dismiss the charges, based on the absence of evidence to go forward, which the trial court granted on October 27, 1999. The State filed the instant appeal on November 19, 1999.

REASONS FOR GRANTING THE WRIT

I. THE CONNECTICUT SUPREME COURT'S DECISION DIRECTLY CONFLICTS WITH THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND THE DECISIONS OF SEVERAL UNITED STATES COURT OF

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count of violating C.G.S. §§ 53a-8(a) (2) and 53a-277, Accessory to money laundering in the second degree; one count of violating C.G. S. § 53-395 (c), Conspiracy to commit racketeering activity; one count of violating C.G. S. § 53-395 (c), Racketeering activity; two counts of violating C.G.S. § 53-8 (a), 53a-49 (a) (2), 53a-119 and 53a-122, Accessory to attempted larceny in the first degree; twenty-four counts of violating C.G.S. § 53a-139 (a) (3), Forgery in the second degree; and one hundred and eleven counts of violating C.G.S. § 53a-49 (a) (2) and 53a-139 (a) (3), Attempted forgery in the second degree.

APPEALS AND THE COURT'S DECISION IN MARYLAND V. GARRISON.

On November17,1995, the Rocky Hill Police received information from the Bank of New York that two forged checks had been negotiated on the account of the Presidential Life Insurance Company. See Affidavit ¶ 3A Appendix p. A-38. As a result of an investigation by the Rocky Hill Police Department, Michael Casati was identified as a suspect in the above referenced forgery and larceny. See Affidavit ¶ 1 Appendix p. A-37.

Members of the Rocky Hill Police Department executed a search and seizure warrant on the home, automobile and person of Michael Casati on November 20, 1995, and found banking records implicating Casati in the above referenced forgery and larceny. See Affidavit ¶ 6 Appendix p. A-40. Mr. Casati gave a statement indicating that he had conspired with Satesh Buddhu to deposit two forged checks into his account. See Affidavit ¶ 7 Appendix p. A-.40 Casati told Detectives, that Satesh, who he had known since High School, approached him and offered him $1000.00 to deposit a $50,000.00 check in his account, and to withdraw the money and to give it to Satesh. See Affidavit ¶ 8A Appendix p. A-41. Satesh picked up Casati at work and drove him to Peoples Bank at Financial Plaza in Hartford, Connecticut. Casati deposited the check and Satesh took him back to work. See Affidavit ¶ 8D-F, Appendix p. A-42. About a week later Satesh called Casati and told him the check cleared and he came to Casati's job and told him to withdraw $9,000.00 or $9,500.00 from his account. See

Affidavit ¶ 8G Appendix p. A-42. Satesh picked up Casati three or four more times and took him to the bank to withdraw funds. See Affidavit ¶ 8H Appendix p. A-43.

Mr. Casati indicated to the detectives that he had met Deowraj Buddhu around the time the conspiracy began. See Affidavit ¶ 8I, Appendix p. A-43. Sometime in August or September, Satesh was called away for National Guard Service. Before he left, Satesh told Casati to continue to withdraw cash from his account, in amounts less than $10,000.00, and to place the cash and his bank book in an envelope and to write the word "agnani" or "agani" on the envelope and to deliver it to his father and someone would pick it up from his father. Before he withdrew any money, he was to call the defendant and then to go to Satesh's house to pick up his bank book, which would be in a sealed envelope. See Affidavit ¶ 8J, Appendix p. A-44. Mr. Casati stated while Satesh was at National Guard Duty, on two or three occasions he passed sealed envelopes to Deowraj Buddhu, containing his bank book and cash. On two or three occasions Deowraj Buddhu gave Casati a sealed envelope containing his bank book. See Affidavit ¶ 8K Appendix p. A-44.

Satesh, after returning from National Guard Service, asked Casati to deposit a check for $8000 in his bank account at Eagle Federal Savings Bank in Rocky Hill, Connecticut and to withdraw and give the proceeds to Satesh, for a $200 fee. See Affidavit ¶ 8N, Appendix p. A-45. Casati agreed and deposited the check and then subsequently tried to withdraw the funds and was advised that the check did not clear.

The detectives concluded that: "The investigation of this complaint indicates that Michael Casati, Gregory Roberson, and Satesh D. Buddhu [and perhaps other unidentified person(s)] participated in such a conspiracy.[3] See Affidavit ¶ 11, Appendix p. A-46-47.

Based on the statement of Mr. Casati, and the detectives training and experience, Detective Dodenhoff of the Rocky Hill Police Department, applied for and received, a search and seizure warrant for 958 Broad Street, Hartford, CT. The subject address is an apartment building containing six units.

Detective Dodenhoff testified at the Suppression Hearing, that prior to the search, he was told by Casati that Satesh and Deowraj Buddhu lived on the third floor, however, he forgot to put this information in his Affidavit in Support of his Application for Search and Seizure Warrant. Detective Dodenhoff testified at the Suppression Hearing that he did not know how many units were on the third floor, but admitted that he was aware that subject address was a multi-unit apartment building, as a result of driving by the building prior to seeking a search warrant. Prior to obtaining the warrant, the Rocky Hill police checked the records from the Department of Motor Vehicles and determined that Satesh and the defendant each had operator's licenses listing 958 Broad Street as his residence. In addition, the police had been provided with a business card for Phoenix Consulting Services

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3 The first check involved in this investigation was in the amount of $8,400.65 made payable to Gregory Roberson, 462 Burnside Ave.,B22, East Hartford, Ct. 06108.

which listed its address as "958 Broad Street, Hartford, CT". Records from Connecticut Light and Power and Connecticut Natural Gas and testimony from Urmila Thakur verified that the subject address consists of six apartments and that each unit has separate electric and gas.

On November 22, 1995, members of the Rocky Hill and Hartford Police Departments executed the subject search and seizure warrant at 958 Broad Street. Detective Dodenhoff testified that upon reaching the third floor, Detective Rossi knocked first on the left door and then the right door, because they were not sure which unit they were supposed to search. Satesh Buddhu answered the left door. Detective Rossi testified that he pushed Satesh Buddhu away from the front of the door in order to gain entry. After a sweep of apartment C-1, the detectives instructed Satesh to open the door of apartment C-2. Satesh initially refused to open apartment C-2 but when the police threatened to smash the door down, Satesh produced a key and opened the door. The officers performed a sweep through apartment C-2.

After conducting the sweep, the officers searched apartments C-1 and C-2 and seized a great number of items. Detective Rossi testified that it appeared that apartments C-1 and C-2 were being used in common by Deowraj Buddhu, Satesh Buddhu, Sunita Buddhu and Urmila Thakur. Urmila Thakur, defendant's ex-wife, testified that apartment C-1 was where she lived with her two children, Sunita Buddhu and Satesh Buddhu. Deowraj Buddhu occupied apartment C-2, when he was in Hartford, and sometimes operated the business of Phoenix Consulting Services from that location.

The court found that the two units were being maintained as separate living units, the apartment C-2 was the defendant's apartment, apartment C-1 was the apartment of Ms. Urmila Thakur the defendant's former wife, and their two children.

There was no information in the warrant indicating that any witness saw any of the items sought at either Satesh or Deowraj Buddhu's residence prior to the search. In fact, the warrant indicates that Mr. Casati's last contact with Deowraj Buddhu and the last time he came to the apartment, was approximately two months prior to the search, sometime in August or September. It can be inferred from the search warrant, that Mr. Casati's bank book was returned to him since there was no indication in the Affidavit in Support of the Search Warrant Application that the bank book was in the possession of Deowraj or Satesh Buddhu.

The Fourth Amendment to the United States Constitution provides in pertinent part provides: "...and no Warrants shall issue, but upon probable cause ... and particularly describing the place to be searched..." Article 1 § 7 the Connecticut Constitution provides in pertinent part: "The people shall be secure in their person, houses, papers and possessions from unreasonable searches and seizures; and no warrant shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation."

The search warrant in this case describes the premises to be searched as: " The residence of Satesh Buddhu (date of birth 2/6/74) and Deowraj S. Buddhu (date of birth 9/18/42),

958 Broad Street, Hartford CT. This is also the business location of Phoenix Consulting Services operated by Deo {Buddhu}."

Detective Dodenhoff, who was the primary detective assigned to the case, testified that he was told by Michael Casati, that Satesh and Deowraj Buddhu occupied the third floor of 958 Broad Street, however, he forgot to put that information in the affidavit in support of application for search and seizure warrant. Detective Dodenhoff further testified that he was aware that the subject address was a multi-unit apartment building, prior to seeking a search and seizure warrant, since he drove by the subject building to establish its existence and location.

In United States v. Higgins, 428 F.2d 232 (7th Cir. 1970), the Seventh Circuit Court of Appeals, held in a case factually analogous to the instant case, that the search warrant was fatally defective because of its failure to describe with particularity the place to be search. In the Higgins case, the warrant described the location to be searched as"the premises known as basement apartment building at 4432-38 Calmuet Avenue, Chicago, Illinois." Id. at 233. There were three apartments in the basement at 4432-38 Calmuet Avenue. The court invalidated the warrant citing United States v. Hinton, 219 F.2d 324, 325 (7th Cir.1955) which held:

> "For purposes of satisfying the Fourth Amendment, searching two or more apartments in the same building is no different than searching two or more completely separate houses. Probable cause must be shown for

searching each house or, in this case, each apartment. A single warrant may cover several different places or residences in a single building. But probable cause must be shown for searching each residence unless it be shown that, although appearing to be a building of several apartments, the entire building is being used as a single unit." Id. at p. 325.

"Federal courts have consistently held that the Fourth Amendment's requirement that a specific 'place' be described when applied to dwellings refers to a single living unit (the residence of one person or family). Thus a warrant which describes an entire building when cause is shown for searching only one apartment is void." Id. at 325.

In U.S. v. Shameizader, 80 F.3d 1131, 1138 (6th Cir. 1996) the Sixth Circuit Court of Appeals held that:

"The Fourth Amendment states that warrants must "'particularly describ[e] the place to be searched"' if there are to be upheld. Maryland v. Garrison, 480 U.S. 79, 84, 107 S.Ct. 1013, 1016, 94 L.Ed.2d 72 (1987). A warrant survives review if "'the officer with a search warrant can, with reasonable effort ascertain and identify the place intended.'" Whitney , 633 F.2d at 907 (quoting Steele v. United States, No. 1, 267 U.S. 498, 503, 45 S.Ct. 414, 416, 69 L.Ed. 757 (1925)). In turn the scope of the warrant hinges on the extent of the officers knowledge of the premises, based on the information available to the time they executed the warrant. Garrision, 480 U.S. 87, 107 S.Ct. at 1017-18. Therefore, if the officers knew or should have known that Millstone was

divided into separate residences, then they would be required to exclude the basement apartment from the scope of the warrant if they only had probable cause to search the upper floor. Id. at 86, 107 S.Ct. at 1018"'.

Connecticut Courts have also held that failure of a search warrant to designate the particular subunit of a multi-unit building invalidates the warrant. In State v. Vilalastra, 521 A.2d 170 (Conn. App. 1987) the court stated: "A search warrant directed against a multiple occupancy structure, as here, will be deemed valid if it describes 'the particular subunit to be searched with sufficient definiteness to preclude a search thereunder of other units located in the larger structure and occupied by innocent persons." Id. at p.172. State v. Abbott, 5 Conn. App. 441, 447, 499 A.2d 437 (1985). A more particular description obviously lessens the likelihood of a general search of a structure. State v. Burgos, 7 Conn.App. 265, 268-69, 508 A.2d 795 (1986). The court in Burgos did opine that an address with the name of the resident of the unit to be searched is sufficient, however, this case is distinguishable from Burgos. In Burgos the place to be search was described with particularity:

> "Upon application and affidavit, on December 3, 1983, the trial court issued a search warrant authorizing the search of the defendant's residence '#76 West Avenue, Willimantic, CT, a green two story wood framed structure containing four separate apartments facing the building from West Avenue, two doors colored white are visible, entrance to 76 is gained from left side door, which has 76 in black to the left of it.' The

same description is contained in the affidavit supporting the warrant. In addition the warrant expressly authorized the police to "enter into or upon and search the place or thing described in the foregoing Affidavit and Application..."(Emphasis added.) Id. at p. 267.

However, the Burgos court went on to state: "The warrant's description of the premises 'need only define the search with practical accuracy' which is satisfied if it tells the officers where to go and what to enter. United States v. Fitzmaurice, 45 F. 2d 133, 135 (2d Cir. 1930). In this case the warrant told the officer's where to go but not what to search therefore, the warrant is invalid. There was a substantial likelihood of a search of an innocent tenant's apartment since the officers began banging on doors admittedly not knowing who lived where. The police officers searched two separate apartments not one as requested in the Affidavit in Support of Application for Search and Seizure Warrant. The police officers admit that they were aware that the subject premises was a multi-unit apartment building, it is logical that a building of this type would have more than one unit per floor, however, the police failed consider this possibility in preparing the affidavit.

In this case, there was no indication that the officer intended to Search of the office of Phoenix Consulting Services. Further, there was no probable cause to search the office of Phoenix Consulting Services, where many items were seized.

The Connecticut Court of Appeals held, that where the warrant describes the premises to be searched as a multiple unit dwelling, such as an apartment building, the warrant must specify which unit is to be searched. State v. Abbott, 5 Conn. App. 441, 444, 447 A.2d 437 (1985) (citations omitted). It is undisputed the subject premises is a multi-unit building. The warrant does not set forth the unit(s) to be searched or even the floor to be searched, nor does it with particularity identify the exact location to be searched. On the basis of the foregoing, the subject search seizure warrant was fatally defective.

This case presents the question of the proper interpretation and application of the Courts holding in Maryland v. Garrison, 480 U.S. 79, 107 S.Ct. 1013, 94 L. Ed. 2d 72 (1987). The decisions of the Connecticut Supreme Court and the Connecticut Appellate Court have reached opposition conclusions. The Connecticut Appellate Court decision properly held:

"Had Dodenhoff and Hedeen disclosed their knowledge as required, the magistrate would have been assisted considerably in his role of determining whether the locus of the proposed search was precisely tailored and limited to the places where there was probable cause to believe that the items sought might be found. Although "search warrants directed against multiple occupancy structures are generally held invalid where the warrant fails to describe the subunit with that degree of particularity that [in theory] precludes search of other units within the building". Garrision v. State, 58 Md. App. 417, 427, 437 A.2d 193 (1985, rev'd, 480 U.S.

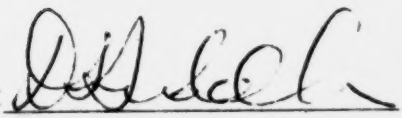
79, 107 A.Ct. 1013, 94 L.Ed. 2d 72 (1987); it can be difficult to determine when the requirement has been satisfied in close cases such as this one. For this and the foregoing reasons, we conclude that it is reasonably probable that but for the officers' failure to disclose that the defendant resided in a multiunit dwelling, the magistrate would have declined to issue the warrant absent further information concerning the location of defendant's apartment. Id. at 11.

The Connecticut Supreme Court's decision improperly applies the holding in Maryland v. Garrision, supra. The Connecticut Supreme in State v. Buddhu, 264 Conn. 449 (2003) held: "The validity of the warrant must be assessed on the basis of the information that the officers disclosed or had a duty to discover and to disclose to the issuing magistrate." Id. at 469. The Connecticut Supreme Court's decision ignores the fact that the affiants were aware that they were searching a multiunit building before applying for a search and seizure warrant.

CONCLUSION

For the reasons stated above, the decision of the Connecticut Supreme Court reversing the trial court and the Connecticut Appellate Court's grant of defendant's Motion to Suppress should be reversed.

DEFENDANT, DEOWRAJ BUDDHU

By: 

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APPENDIX

APPENDIX TABLE OF CONTENTS

1. Connecticut Supreme Court Decision
Dated June 24, 2003.....A1

2. Connecticut Appellate Court Decision
Dated August 14, 2001.....A27

3. Affidavit and Application
Search and Seizure Warrant.....A36

4. Declaration of Rights.....A54

and other systemic defects attendant in the capital sentencing process.[4] See, e.g., F. Clines, "Death Penalty is Suspended in Maryland," N.Y. Times, May 10, 2002, p. A1; J. Kirchmeier, supra, 73 U. Colo. L. Rev. 5. I would urge Connecticut to join these forward thinking jurisdictions, and at least consider a moratorium on the ultimate penalty. Until such time, however, I respectfully dissent.

STATE OF CONNECTICUT *v.* DEOWRAJ BUDDHU (SC 16605)

Borden, Norcott, Palmer, Vertefeuille and Zarella, Js.

Syllabus

The defendant, who was charged with, inter alia, multiple counts of second degree forgery, moved to suppress certain evidence seized from his apartment during the execution of a search warrant. Police detectives had sought the warrant after learning that the defendant's son, S, allegedly was involved in a check forging scheme in which the defendant also allegedly participated. Through a search of the state department of motor vehicle records, the detectives verified that both S and the defendant listed their residential address as "958 Broad Street, Hartford." They also discovered that the defendant operated an accounting and financial services business at that same address. On the basis of this and other information, they obtained a warrant authorizing the search of the residence at 958 Broad Street and the seizure of, inter alia, bank account records, office equipment, and other items used in the manufacture of forged instruments. In executing the warrant, police officers found two unmarked doors on the floor on which they believed the defendant and S resided. After the officers knocked on both doors, S

[4] I note that in January, 2003, following the two year moratorium on the imposition of the death penalty, Governor George Ryan of Illinois cited the dangers of wrongful capital convictions, and commuted the death sentences of that state's entire death row population to life imprisonment without the possibility of parole. See, e.g., A. Lasker, "First One, Then Another . . . Then Everyone," Chi. Daily L. Bull., January 13, 2003, p. 1.

I also note, with regret, that the newly elected governor of Maryland has proceeded in the opposite direction from Illinois, and in January, 2003, lifted that state's moratorium on the imposition of the death penalty. See, e.g., A. Liptak, "Top Lawyer In Maryland Calls for End To Executions," N.Y. Times, January 31, 2003, p. A19.

opened the door on the left, informed the officers that the defendant lived in the apartment on the right and, at the request of the officers, opened the door to the defendant's apartment with a key. The officers then seized certain incriminating evidence that they found in the defendant's apartment. The trial court granted the defendant's motion to suppress, concluding that probable cause did not exist to search his apartment and that the warrant failed to describe with particularity the place to be searched, in violation of the fourth amendment. The trial court then granted the state's motion to dismiss and rendered judgment dismissing the information, from which the state, on the granting of permission, appealed to the Appellate Court. The Appellate Court affirmed the judgment of the trial court on the ground that the warrant failed to satisfy the particularity requirement of the fourth amendment. The state, on the granting of certification, appealed to this court, claiming that the Appellate Court improperly determined that the warrant did not satisfy the particularity requirement of the fourth amendment and that the trial court improperly determined that the warrant was not supported by probable cause. *Held*:

1. The trial court improperly determined that probable cause did not exist to search the defendant's apartment; the warrant affidavit contained sufficient facts to allow the judge issuing the warrant reasonably to conclude that probable cause existed to believe that the defendant was involved in the forgery scheme, or at least that probable cause existed to believe that S had access to the defendant's office equipment and that S had used that equipment in furtherance of the forgery scheme.
2. The Appellate Court improperly determined that the warrant did not satisfy the particularity requirement of the fourth amendment; although the warrant was directed at a single residence, while S and the defendant resided in two separate apartments within the building, the warrant was validly issued and executed—the warrant included the correct address of the building as indicated on the outside of the building, it specifically named S and the defendant, probable cause existed to search both the apartment in which S resided and the separate apartment in which the defendant resided, and the officers limited their search to areas for which the warrant established probable cause to believe that the items to be seized would be located.

Argued January 15—officially released June 24, 2003

Procedural History

Substitute information charging the defendant with 111 counts of the crime of attempt to commit forgery in the second degree, twenty-five counts of the crime of forgery in the second degree, two counts of the crime of attempt to commit larceny in the first degree as an

accessory and one count each of the crimes of larceny in the first degree as an accessory, money laundering in the second degree as an accessory, racketeering activity and conspiracy to commit racketeering activity, brought to the Superior Court in the judicial district of New Britain, where the court, *Espinosa, J.*, granted the defendant's motion to suppress certain evidence; thereafter, the court granted the state's motion to dismiss and rendered judgment dismissing the information, from which the state, on the granting of permission, appealed to the Appellate Court, *Landau, Mihalakos* and *Daly, Js.*, which affirmed the trial court's judgment, and the state, on the granting of certification, appealed to this court. *Reversed; further proceedings.*

Robert J. Scheinblum, assistant state's attorney, with whom were *John M. Massameno*, senior assistant state's attorney, and, on the brief, *Christopher L. Morano*, chief state's attorney, for the appellant (state).

Wesley S. Spears, for the appellee (defendant).

Opinion

ZARELLA, J. In this certified criminal appeal, we are called upon to determine, inter alia, whether the Appellate Court properly upheld the trial court's ruling on a motion of the defendant, Deowraj Buddhu, to suppress certain evidence that police officers had seized while executing a search warrant at the defendant's residence. The trial court granted the defendant's motion to suppress on the basis that the facts alleged in the affidavit accompanying the warrant application did not establish probable cause to search the defendant's residence and that the warrant itself failed to describe with particularity the place to be searched as required by the

fourth amendment to the United States constitution.[1] Thereafter, the trial court dismissed the substitute information charging the defendant with multiple violations of the Penal Code.[2] The state appealed, on the granting of permission to appeal,[3] from the judgment of the trial court to the Appellate Court. The Appellate Court affirmed the judgment of the trial court, concluding that the warrant failed to satisfy the particularity requirement of the fourth amendment. *State* v. *Buddhu*, 65 Conn. App. 104, 111, 112, 782 A.2d 169 (2001). On appeal to this court, the state claims that the Appellate Court improperly determined that the warrant did not satisfy the particularity requirement and that the trial court improperly determined that the warrant was not supported by probable cause. We agree with the state and, accordingly, reverse the judgment of the Appellate Court.

The following facts and procedural history are relevant to this appeal. On November 17, 1995, Gary E.

[1] The fourth amendment to the United States constitution provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The fourth amendment is made applicable to the states through the due process clause of the fourteenth amendment. *Mapp* v. *Ohio*, 367 U.S. 643, 655, 81 S. Ct. 1684, 6 L. Ed. 2d 1081 (1961).

[2] The defendant was charged with 111 counts of the crime of attempt to commit forgery in the second degree in violation of General Statutes §§ 53a-139 and 53a-49 (a), twenty-five counts of the crime of forgery in the second degree in violation of § 53a-139, two counts of the crime of attempt to commit larceny in the first degree as an accessory in violation of General Statutes (Rev. to 1995) § 53a-122 and General Statutes §§ 53a-8 and 53a-49 (a), and one count each of the crimes of larceny in the first degree as an accessory in violation of General Statutes (Rev. to 1995) § 53a-122 and § 53a-8, money laundering in the second degree as an accessory in violation of General Statutes §§ 53a-277 (a) and 53a-8, racketeering activity in violation of General Statutes § 53-395 (c), and conspiracy to commit racketeering activity in violation of § 53-395 (c) and General Statutes § 53a-48.

[3] See General Statutes § 54-96.

Gaudioso, an employee of The Bank of New York, reported to the Rocky Hill police department that unknown persons had forged and negotiated two checks resulting in a monetary loss of approximately $58,400. Gaudioso provided copies of the checks, which revealed that one check, in the amount of $8400.65, was made payable to and negotiated by Gregory W. Roberson on August 3, 1995, and that the other check, in the amount of $50,000, was made payable to and negotiated by Michael Anthony Casati on August 16, 1995. According to Gaudioso, the forgeries were not immediately identified because they were of "professional-quality."

On November 20, 1995, the Rocky Hill police department executed search warrants upon Casati's person, residence and vehicle for evidence relating to the forgeries. Subsequent to the execution of the warrants, Casati was interviewed by police. In addition, Casati completed an affidavit in which he acknowledged being a participant in the forgery scheme. In his affidavit, Casati explained that, in August or September, 1995, Satesh Buddhu (Satesh), one of Casati's friends and the defendant's son, approached Casati and asked him if he wanted to make some additional money. Satesh told Casati that he would pay him $1000 if he would deposit a $50,000 check in his bank account, to which Casati agreed. A few days later, Satesh picked up Casati at Casati's place of employment and drove Casati to the bank. After Casati deposited the check into his savings account, Satesh brought him back to work but retained Casati's bankbook. Approximately one week later, Satesh again picked up Casati at work and brought him to the bank, where Casati withdrew approximately $9000 in cash. On three or four more occasions, Satesh drove Casati to the bank where Casati withdrew cash from his account. On each of those occasions, Satesh

retained Casati's bankbook after Casati had completed the transaction.

Casati explained further in his affidavit that, sometime thereafter, Satesh was called to serve in the National Guard in Texas. Before his departure, Satesh instructed Casati to go to the bank every few days, withdraw less than $10,000 in cash, place the money, along with the bankbook, in a sealed envelope labeled "AGNANI" or "AGANI," and give the envelope to Satesh's father, the defendant. Satesh further instructed Casati to give the envelope only to the defendant. Thereafter, each time Casati would withdraw money, he would place a telephone call to the defendant, meet the defendant at what Casati believed to be the defendant's residence at 958 Broad Street in Hartford, and pick up a sealed envelope from the defendant that contained the bankbook and that had the name "MIKE" written on the front. Casati would withdraw cash from his account and then return the cash and bankbook to the defendant in a sealed envelope. Casati repeated this cycle on several occasions until the bank account was depleted.

Sometime in October, 1995, Satesh returned from Texas and called Casati at home. Satesh asked Casati about his checking account number and the branch at which that account was located. Approximately one week later, Satesh called Casati and told him that he would pay him $200 to use Casati's checking account, and that a check in the approximate amount of $8000 had been deposited in that account and should have cleared. Casati agreed and attempted to make a withdrawal from that account, but the bank informed him that the check did not clear. Soon thereafter, Casati received the check in the mail, and Satesh went to Casati's residence to pick it up.

On the basis of the information Casati had provided, two police detectives from the Rocky Hill police depart-

ment, on November 21, 1995, applied for a warrant authorizing the search of the residence located at 958 Broad Street in Hartford and the seizure of, inter alia, bank account records, office equipment, and other items used in the manufacture of forged instruments. In the affidavit accompanying their application for the warrant, the detectives noted that they had verified, through a search of the records of the state department of motor vehicles, that Satesh and the defendant both had identified their residential address as 958 Broad Street in Hartford. The detectives further noted that, while executing a search warrant on Casati's person, they had discovered a business card in Casati's wallet bearing the business name "Phoenix Consulting Services" with an address of "958 Broad Street, Hartford." The card also listed the name "Deo" and indicated that the business engaged in accounting, tax preparation, and estate and financial planning.

In support of their application for a warrant, the detectives stated: "Based upon the information contained [in the affidavit in support of the warrant application], we . . . believe probable cause exists that evidence of the crimes of FORGERY and LARCENY will be found . . . within the residence and home operated business located at 958 Broad Street . . . [in] Hartford . . . ." The detectives also stated: "[B]ased upon [our] training and experience . . . we know [that] person(s) who engage in the manufacture of forged checks have in their possession and/or control a variety of office-type equipment to complete the forged documents. The office equipment utilized by such people include check-type paper, typewriter(s), check writer(s), computer(s), printer(s), recordings of reference materials and/or records of their accomplishments, and identification of other person(s) or businesses which are knowingly or unknowingly involved in the completion of said crimes."

On November 21, 1995, a search and seizure warrant was issued on the basis of the information contained in the detectives' application for a warrant and the accompanying affidavit. The warrant contained the following description of the place to be searched: "The residence of SATESH BUDDHU (date of birth 2/6/74) and [the defendant] DEOWRAJ S. BUDDHU (date of birth 9/18/42), 958 Broad Street, Hartford, Ct. This is also the business location of PHOENIX CONSULTING SERVICES, operated by [the defendant] Deo [Buddhu]."

On November 22, 1995, members of the Hartford and Rocky Hill police departments executed the search warrant at 958 Broad Street. The building on Broad Street that bore the number "958" was a three-story, multiunit dwelling, which had two unlabeled doors on each floor. Upon their arrival, the police officers ascended to the third floor of the building. As they reached the third floor, they noticed that there were two doors. The officers first knocked on the door on the left and then knocked on the door on the right. Satesh opened the door on the left and certain officers entered that unit and conducted a protective sweep[1] of all of the rooms therein. The police officers then asked Satesh where the defendant's room was located. Satesh told the officers that the defendant lived in the unit on the right. The police officers instructed Satesh to open the door on the right and Satesh complied, unlocking the door with a key. As a result of their search of the defendant's unit, the officers seized several items including computer equipment, computer media, records of forged documents, a United States Immigration and Naturalization Service rubber stamp, several completed and partially completed counterfeit American citizenship documents, and correspondence describing how forged

[1] See generally *Maryland* v. *Buie*, 494 U.S. 325, 110 S. Ct. 1093, 108 L. Ed. 2d 276 (1990).

citizenship documents could be used to obtain a United States passport and social security card.

The defendant subsequently was charged with numerous counts of second degree forgery and attempted second degree forgery, and with various other offenses, including attempt to commit first degree larceny as an accessory. See footnote 2 of this opinion. The defendant filed a motion to suppress the evidence seized from his residence. In support of his motion, the defendant contended that the warrant application and accompanying affidavit did not furnish probable clause to believe that the items sought would be found at his residence. In addition, the defendant contended that the warrant that ultimately was issued did not describe with sufficient particularity the place to be searched.

At a hearing on the defendant's motion to suppress, the detectives who applied for the warrant testified that they were aware that the building in which Satesh and the defendant resided was a multiunit dwelling and that Satesh and the defendant resided on the third floor, but that, due to an oversight, they had failed to specify in their application for the warrant that the third floor of the premises was the intended place to be searched. Additionally, the warrant that was issued indicated, and the detectives believed, that Satesh and the defendant resided at the same residence when, in fact, Satesh resided in the unit on the left and the defendant resided in the unit on the right. There was testimony at the suppression hearing indicating that Satesh's actual address was 960 Broad Street, apartment C-1, and that the defendant's actual address was 958 Broad Street, apartment C-2. There was additional testimony, however, that the single, front door entrance to the three-story building in which Satesh and the defendant resided bore only the number "958." In addition, there is no indication that the individual apartment doors on the third floor were labeled.

In granting the defendant's motion to suppress, the trial court concluded, inter alia, that probable cause did not exist to believe that the items sought by the detectives would be found at the defendant's residence and that the warrant's description of the place to be searched was overbroad "because it was based on a mistaken belief that there was only one residence on the third floor of the building at 958 Broad Street [in Hartford] and [that] both the defendant and Satesh . . . lived there together." The court subsequently granted the state's motion to dismiss in light of the court's ruling that the evidence supporting the defendant's prosecution had been illegally obtained and, therefore, would have been inadmissible in the state's case-in-chief. Thereafter, the trial court granted the state's motion for permission to appeal, and the state appealed to the Appellate Court.

On appeal, the Appellate Court affirmed the judgment of the trial court, concluding that the warrant did not satisfy the particularity requirement of the fourth amendment to the United States constitution. *State* v. *Buddhu*, supra, 65 Conn. App. 111. We granted the state's petition for certification to appeal limited to the following issues. "(1) Did the Appellate Court properly conclude that the search warrant in question did not satisfy the particularity requirement of the fourth amendment to the United States constitution? (2) If the answer to the first question is 'no,' did the trial court properly conclude that (a) the warrant was not supported by probable cause and (b) the search exceeded the scope of the warrant?" *State* v. *Buddhu*, 258 Conn. 928, 929, 783 A.2d 1031 (2001).

I

PROBABLE CAUSE

Generally, a search warrant satisfies the particularity requirement of the fourth amendment to the United

States constitution if it identifies the place or thing for which there is probable cause to search with sufficient definiteness to preclude indiscriminate searches. See *Maryland* v. *Garrison*, 480 U.S. 79, 84–85, 107 S. Ct. 1013, 94 L. Ed. 2d 72 (1987). We first address, therefore, whether the trial court properly concluded that probable cause did not exist to search the defendant's residence. If we determine that the trial court improperly concluded that probable cause did not exist, we then must determine whether the Appellate Court properly concluded that the warrant failed to satisfy the particularity requirement of the fourth amendment.

As a threshold matter, we address our standard of review. "Whether the trial court properly found that the facts submitted were enough to support a finding of probable cause is a question of law. . . . The trial court's determination on [that] issue, therefore, is subject to plenary review on appeal." (Internal quotation marks omitted.) *State* v. *Pappas*, 256 Conn. 854, 864, 776 A.2d 1091 (2001).

The law regarding probable cause and the standards for upholding the issuance of a search warrant are well established. "We uphold the validity of [a search] warrant . . . [if] the affidavit at issue presented a substantial factual basis for the magistrate's conclusion that probable cause existed. . . . [T]he magistrate is entitled to draw reasonable inferences from the facts presented. When a magistrate has determined that the warrant affidavit presents sufficient objective indicia of reliability to justify a search and has issued a warrant, a court reviewing that warrant at a subsequent suppression hearing should defer to the reasonable inferences drawn by the magistrate. Whe[n] the circumstances for finding probable cause are detailed, whe[n] a substantial basis for crediting the source of information is apparent, and when a magistrate has in fact found probable cause, the reviewing court should not invalidate

the warrant by application of rigid analytical categories. . . .

"Probable cause to search exists if: (1) there is probable cause to believe that the particular items sought to be seized are connected with criminal activity or will assist in a particular apprehension or conviction . . . and (2) there is probable cause to believe that the items sought to be seized will be found in the place to be searched. . . . In determining the existence of probable cause to search, the issuing magistrate assesses all of the information set forth in the warrant affidavit and should make a practical, nontechnical decision whether . . . there is a fair probability that contraband or evidence of a crime will be found in a particular place. . . . We view the information in the affidavit in the light most favorable to upholding the magistrate's determination of probable cause. . . . In a doubtful or marginal case . . . our constitutional preference for a judicial determination of probable cause leads us to afford deference to the [issuing judge's] determination. . . . Probable cause, broadly defined, [comprises] such facts as would reasonably persuade an impartial and reasonable mind not merely to suspect or conjecture, but to believe that criminal activity has occurred." (Citations omitted; internal quotation marks omitted.) *State* v. *Respass*, 256 Conn. 164, 172–73, 770 A.2d 471, cert. denied, 534 U.S. 1002, 122 S. Ct. 478, 151 L. Ed. 2d 392 (2001).

In the present case, the trial court determined "that the warrant affidavit established probable cause to believe that the particular items sought to be seized [were] connected with criminal activity or [would] assist in a particular apprehension or conviction." (Internal quotation marks omitted.) The trial court concluded, however, "that the warrant affidavit failed to establish that there [was] probable cause to believe that the items sought to be seized [would] be [found] in the

place to be searched . . . ." (Internal quotation marks omitted.) Specifically, the trial court concluded that, "because the affidavit failed to establish a reasonable basis for believing that the defendant was aware of the criminal activities, and because the last transfer of envelopes that occurred through the defendant occurred more than a month before Casati gave his statement to the police, and because there were no other documented connections to the residence, it was unreasonable to conclude that there was probable cause to believe that the fruits of these alleged crimes would be present at the residence of Satesh . . . or the defendant."

The trial court concluded, with respect to the defendant's home office, that: "A review of the warrant affidavit reveals no links between Satesh . . . and the residence or office with the exception that he supposedly lived with [the defendant] who maintained an office in their home. There is no claim in the affidavit that either of the [detectives who applied for the warrant] or Casati ever saw the layout of the apartment. There is no claim . . . in the affidavit that either of the [detectives] or Casati knew if the office was self-contained or was just a desk in an unlocked room. There is no claim in the affidavit that Satesh . . . had access to the office, even though it was located in the apartment he shared with the defendant. Presuming that the defendant was unaware of the criminal activities that [Satesh] was allegedly involved [in] (as is the only reasonable presumption in light of the facts alleged in the affidavit) it would be illogical to believe that Satesh would have stored the fruits of his criminal activities in [the defendant's] office [when the defendant] was unaware of the fact that these activities were occurring. Thus, in the event that the warrant was intended by the issuing magistrate to authorize the search of the defendant's office, th[e] court finds that such a finding was errone-

ous. There were no facts alleged in the affidavit . . . sufficient to establish probable cause to believe that the items to be seized would be found in the office of Phoenix Consulting Services."

The trial court's conclusion that there was no probable cause to search the defendant's residence and office, therefore, was based on its determination that the facts in the affidavit led to only one reasonable inference, namely, that the defendant was unaware of Satesh's illegal activities. On the basis of this determination, the trial court reasoned that, if the defendant was not involved in Satesh's illegal activities, the only nexus between the defendant and the fruits of the crime was the defendant's receipt and retention of the sealed envelopes containing the money and Casati's bankbook, which ended approximately one month before the search. Thus, the trial court concluded "that there was not sufficient evidence upon which to base a finding of probable cause to search the defendant's residence."

We conclude that the trial court improperly determined that the warrant affidavit contained insufficient facts upon which to base a finding of probable cause to search the defendant's residence and office. The facts contained in the warrant affidavit were sufficient to allow the judge issuing the warrant reasonably to conclude that probable cause existed to believe that the defendant was involved in Satesh's illegal activities.

"[I]t is axiomatic that [a] significantly lower quant[um] of proof is required to establish probable cause [rather] than guilt." (Internal quotation marks omitted.) *State* v. *Bova*, 240 Conn. 210, 232, 690 A.2d 1370 (1997). "[P]robable cause requires only a probability or substantial chance of criminal activity, not an actual showing of such activity. By hypothesis, therefore, innocent behavior frequently will provide the basis for a showing of probable cause; to require otherwise would be to sub

silentio impose a drastically more rigorous definition of probable cause than the security of our citizens' [sic] demands. . . . In making a determination of probable cause the relevant inquiry is not whether particular conduct is innocent or guilty, but the degree of suspicion that attaches to particular types of noncriminal acts." (Citation omitted; internal quotation marks omitted.) *Illinois* v. *Gates*, 462 U.S. 213, 243–44 n.13, 103 S. Ct. 2317, 76 L. Ed. 2d 527 (1983).

In the present case, Casati stated in the warrant affidavit that he had been introduced to the defendant by Satesh before Satesh departed for National Guard duty. Satesh also instructed Casati not to give the envelope containing his bankbook and the money to anyone but the defendant while Satesh was away. Casati further stated that, while Satesh was away, he met with the defendant on two or three occasions at 958 Broad Street, which Casati believed to be the residence of Satesh and the defendant. The fact that the envelopes were sealed when Casati relinquished them to the defendant does not compel the conclusion that the defendant was unaware of Satesh's illegal activities. Thus, contrary to the trial court's determination that there was only one reasonable interpretation of the facts alleged in the warrant affidavit, we conclude that the issuing judge reasonably inferred that the defendant, having received, on several occasions, sealed envelopes on Satesh's behalf from a relatively unfamiliar person, probably was involved in the underlying illegal activities. Although the trial court's interpretation of the facts alleged in the warrant affidavit is a plausible interpretation, it is by no means the only reasonable interpretation.

Furthermore, it is axiomatic that we review the issuance of a warrant with deference to the reasonable inferences that the issuing judge could have and did draw. See *State* v. *Respass*, supra, 256 Conn. 172. "When

reviewing an application [for a warrant], courts must also bear in mind that search warrants are directed . . . not at persons, but at property where there is probable cause to believe that instrumentalities or evidence of [a] crime will be found. . . . The affidavit in support of a warrant need not present information that would justify the arrest of the individual in possession of or in control of the property. Nor is it required that the owner be suspected of having committed a crime. Property owned by a person absolutely innocent of any wrongdoing may nevertheless be searched under a valid warrant." (Citations omitted.) *United States* v. *Tehfe*, 722 F.2d 1114, 1117–18 (3d Cir. 1983), cert. denied, 466 U.S. 904, 104 S. Ct. 1679, 80 L. Ed. 2d 154 (1984).

In the present case, the warrant affidavit at least contained sufficient facts to establish probable cause to believe that the defendant's office equipment was used in the illegal activities even if the defendant was, in fact, innocent and lacked knowledge of Satesh's illegal activities. For example, the defendant and Satesh were related. Also, they obviously had a relationship with one another based on the fact that Satesh had introduced the defendant to Casati and trusted the defendant to receive envelopes from Casati while Satesh was away. Satesh and the defendant resided in close proximity. The facts in the warrant affidavit established, at a minimum, that Satesh and the defendant lived in the same building. The warrant affidavit also established that the defendant operated a financial services business out of his residence and likely possessed the type of office equipment that could be used to forge checks. Therefore, we conclude that the warrant affidavit contained sufficient facts to allow the judge issuing the warrant reasonably to conclude that it was probable that Satesh had access to the defendant's office equipment and had used that equipment in furtherance of the illegal check forging activities regardless of whether the defendant was

directly involved in those activities or had knowledge of them.

Having concluded that the warrant affidavit contained sufficient facts to allow the judge issuing the warrant to conclude that probable cause existed to believe that the defendant was involved in [Satesh's] illegal forgery scheme, or at least that probable cause existed to believe that Satesh had access to the defendant's office equipment and had used that equipment in furtherance of the illegal forgery scheme, we now consider whether the information contained in the warrant affidavit was stale. "The determination of probable cause to conduct a search depends in part on the finding of facts so closely related to the time of the issuance of the warrant as to justify a belief in the continued existence of probable cause at that time. . . . Although it is reasonable to infer that probable cause dwindles as time passes, no single rule can be applied to determine when information has become too old to be reliable. . . . Consequently, whether a reasonable likelihood exists that evidence identified in the warrant affidavit will be found on the subject premises is a determination that must be made on a case-by-case basis. Accordingly, we have refused to adopt an arbitrary cutoff date, expressed either in days, weeks or months, beyond which probable cause ceases to exist. . . . Moreover, we have recognized that [i]f items of property are innocuous in themselves or not particularly incriminating and are likely to remain on the premises, that fact is an important factor to be considered in determining the staleness of a warrant." (Citations omitted; internal quotation marks omitted.) *State* v. *Bova*, supra, 240 Conn. 232–33. "The likelihood that the evidence sought is still in place depends on a number of variables, such as the nature of the crime, of the criminal, of the thing to be seized, and of the place to be searched. . . . [W]hen an activity is of a protracted and continuous

nature the passage of time becomes less significant." (Citations omitted; internal quotation marks omitted.) *United States* v. *Tehfe*, supra, 722 F.2d 1119.

In the present case, the detectives seeking the warrant stated in the warrant affidavit: "[B]ased upon [our] training and experience . . . we know person(s) who engage in the manufacture of forged checks have in their possession and/or control a variety of office-type equipment to complete the forged documents. The office equipment utilized by such people include check-type paper, typewriter(s), check writer(s), computer(s), printer(s), recordings of reference materials and/or records of their accomplishments, and identification of other person(s) or businesses which are knowingly or unknowingly involved in the completion of [forgeries]."

The warrant affidavit contained facts sufficient to demonstrate that: (1) the defendant operated a financial services business out of his residence at 958 Broad Street; (2) a person who is involved in the manufacture of forged checks probably has in his possession or control a variety of office equipment, which likely would include items used by a financial services business such as the defendant's business; (3) it was probable that the defendant was involved in Satesh's illegal activities, or, at least, it was probable that Satesh had access to the defendant's office equipment and used the equipment in furtherance of the illegal forgery scheme; (4) the warrant would list several items subject to seizure that were innocuous and not intrinsically incriminating; and (5) the criminal activity was ongoing in nature, occurring over a period of several months, including the same month in which the warrant was executed. In light of the foregoing facts, the fact that Casati did not have personal contact with the defendant for approximately one month before the warrant was issued does not compel the conclusion that the information contained in the warrant affidavit was stale. We

conclude, therefore, that probable cause existed to search the defendant's residence and office when the warrant was issued.

II

PARTICULARITY

We next address the issue of whether the warrant satisfied the particularity requirement of the fourth amendment to the United States constitution. "Whether a warrant is sufficiently particular to pass constitutional scrutiny presents a question of law that we decide de novo." *United States* v. *George*, 975 F.2d 72, 75 (2d Cir. 1992).

In the present case, the warrant contained the following description of the place to be searched: "The residence of SATESH BUDDHU (date of birth 2/6/74) and [the defendant] DEOWRAJ S. BUDDHU (date of birth 9/18/42), 958 Broad Street, Hartford, Ct. This is also the business location of PHOENIX CONSULTING SERVICES, operated by [the defendant] Deo [Buddhu]." The warrant, therefore, limited the scope of the search to the residence of Satesh and the residence and office of the defendant.

The Appellate Court's conclusion that the warrant failed to satisfy the particularity requirement of the fourth amendment was based on its reliance on *Maryland* v. *Garrison*, supra, 480 U.S. 85, for the proposition that if the detectives reasonably could have determined that the defendant's residence was located in a multiunit building, they were required to disclose that information to the judge issuing the warrant in order to satisfy the particularity requirement. See *State* v. *Buddhu*, supra, 65 Conn. App. 109–11. We disagree with the Appellate Court's interpretation of *Garrison*.

First, as the Appellate Court correctly stated in *State* v. *Burgos*, 7 Conn. App. 265, 508 A.2d 795 (1986), "[a]

search warrant directed against a multiple-occupancy structure . . . will be deemed valid if it describes the particular subunit to be searched with sufficient definiteness to preclude a search thereunder of other units located in the larger structure and occupied by innocent persons. . . . A more particular description obviously lessens the likelihood of a general search of such a structure. The particularity requirement will be met by including the correct address of the building and by naming the individual whose apartment is to be searched." (Citations omitted; internal quotation marks omitted.) Id., 268–69. In the present case, the warrant satisfied the *Burgos* test inasmuch as it included the correct address of the building and named the individuals whose residence was to be searched.

The court in *Garrison*, unlike the Appellate Court in *Burgos*, however, did not decide the "particularity" issue by determining whether the warrant at issue properly described the particular unit in a multiunit dwelling that the officers intended to search. Rather, the court focused on the validity of the issuance and execution of the warrant based on what investigating officers knew, or should have known, when they applied for and executed the warrant. See generally *Maryland* v. *Garrison*, supra, 480 U.S. 84–86.

In *Garrison*, "police officers obtained and executed a warrant to search the person of Lawrence McWebb and 'the premises known as 2036 Park Avenue third floor apartment.' When the police applied for the warrant and when they conducted the search pursuant to the warrant, they reasonably believed that there was only one apartment on the premises described in the warrant. In fact, the third floor was divided into two apartments, one occupied by McWebb and one by [the defendant, Garrison, who presumably was an innocent and unrelated party]. Before the officers executing the warrant became aware that they were in a separate

apartment occupied by [Garrison], they had discovered the contraband that provided the basis for [Garrison's] conviction for violating Maryland's Controlled Substances Act. The question presented [in *Garrison* was] whether the seizure of that contraband was prohibited by the Fourth Amendment." Id., 80.

As a threshold matter, the court in *Garrison* stated that "the case present[ed] two separate constitutional issues, one concerning the validity of the warrant and the other concerning the reasonableness of the manner in which it was executed." Id., 84. The court began its analysis of the first issue by reviewing the law regarding particularity. The court stated that "[t]he Warrant Clause of the Fourth Amendment categorically prohibits the issuance of any warrant except one particularly describing the place to be searched and the persons or things to be seized. The manifest purpose of this particularity requirement was to prevent general searches. By limiting the authorization to search to the specific areas and things for which there is probable cause to search, the requirement ensures that the search will be carefully tailored to its justifications, and will not take on the character of the wide-ranging exploratory searches the [f]ramers intended to prohibit. Thus, the scope of a lawful search is defined by the object of the search and the places in which there is probable cause to believe that it may be found." (Internal quotation marks omitted.) Id.

The court in *Garrison* declared that the benefit of hindsight does not determine whether the warrant was validly issued. See id., 85. Rather, the dispositive issue is "whether [a] factual mistake invalidate[s] a warrant that undoubtedly would have been valid if it had reflected a completely accurate understanding of the building's floor plan." Id. In resolving this issue, the court in *Garrison* stated that, "[p]lainly, if the officers had known, or even if they should have known, that

there were two separate dwelling units on the third floor of 2036 Park Avenue, they would have been obligated to exclude [Garrison's] apartment from the scope of the requested warrant. But we must judge the constitutionality of their conduct in light of the information available to them at the time they acted. Those items of evidence that emerge after the warrant is issued have no bearing on whether . . . a warrant was validly issued. Just as the discovery of contraband cannot validate a warrant invalid when issued . . . it [is] equally clear that the discovery of facts demonstrating that a valid warrant was unnecessarily broad does not retroactively invalidate the warrant. The validity of the warrant must be assessed on the basis of the information that the officers disclosed, or had a duty to discover and to disclose, to the issuing [m]agistrate." Id.

In the present case, the defendant similarly claims that the officers reasonably could have discovered, and had a duty to disclose to the judge issuing the warrant, that the defendant resided in a multiunit building and that the defendant and Satesh resided in separate residences within that building. Contrary to the Appellate Court's conclusion in the present case; see *State* v. *Buddhu*, supra, 65 Conn. App. 111; however, the court in *Garrison* did not hold, explicitly or implicitly, that officers have a duty to disclose to the judge issuing the warrant that a residence is located in a multiunit building. The court in *Garrison* merely held that if the police knew, or should have known, that the third floor of the multiunit building contained additional residences for which there was no probable cause to search, the officers would have had a duty to exclude those residences from the warrant application. See *Maryland* v. *Garrison*, supra, 480 U.S. 84–85. Thus, *Garrison* stands for the limited proposition that police officers have a duty to disclose *material* information that they discover or reasonably should discover and

that reasonably would promote a narrower description of the place to be searched, so as to preclude indiscriminate searches of places for which there is no probable cause to search.

We note that the facts in the present case are unusual. Specifically, the warrant in the present case was directed at a single residence, but the individuals named in the warrant, in fact, resided in two distinct residences in the same building, on the same floor. The warrant, therefore, inadvertently authorized the search of two distinct residences. Although the issue of whether the police had probable cause to search Satesh's residence is not directly at issue in this appeal, we address that issue because if the warrant affidavit in the present case established independent probable cause to search both Satesh's residence and the defendant's residence, then a *Garrison* inquiry into what the police officers knew, or should have known, about the living arrangements of the defendant and Satesh is unnecessary.

The affidavit submitted in support of the issuance of the warrant clearly demonstrates that Satesh was the primary suspect in the illegal forgery scheme. Additionally, the detectives stated in the affidavit that their "police investigative training and experience ha[d] provided [them] with the knowledge that persons who participate in white-collar fraud-type crimes are often meticulous in maintaining records of their efforts. The people who commit such crimes oftentimes do not begin their illegal enterprise with a large fraud as described herein, but operate in a continuing, growing enterprise. Accordingly, they tend to perfect their actions as their actions continue. In order to develop and increase their profits, they maintain records as well as supplies to advance themselves. Furthermore, in order to maintain such records from discovery, the records are maintained in a location where the perpetrator feels comfortable and protected. An area [where]

such a perpetrator would experience such security would be their [sic] residence."

Thus, the detectives, in applying for the warrant at issue, sought and ultimately received permission to seize, in addition to the defendant's office equipment, items that were personal to Satesh and likely would be found at Satesh's residence, regardless of whether he resided with the defendant or in a separate residence in the same building. For example, the issuing judge included in the search warrant all of Satesh's checking and savings account records, as well as written records identifying the acquisition and disbursement of fraudulently obtained money or valuables. We conclude, therefore, that there was probable cause to search the residence of Satesh when the warrant was issued regardless of whether he resided with the defendant or in a separate residence in the same building.

Thus, even if the officers in the present case knew, or should have known, that Satesh and the defendant resided in separate residences in a multiunit building, there was no risk that the description of the place to be searched, albeit inaccurate, would have resulted in the search of a place for which there was no probable cause to search in violation of the particularity requirement of the fourth amendment to the United States constitution. We conclude, therefore, that the warrant in the present case was validly issued because: (1) it included the correct address of the building, as indicated on the outside of the building; (2) it specifically named Satesh and the defendant; and (3) probable cause existed to search both the unit in which Satesh resided and the separate unit in which the defendant resided.

The second issue that the United States Supreme Court addressed in *Garrison* was the reasonableness of the manner in which the warrant was *executed*. The

court stated in *Garrison* that "[t]he question whether the execution of the warrant violated [Garrison's] constitutional right to be secure in his home is somewhat less clear. . . . [T]he officers' entry into the third-floor common area was legal; they carried a warrant for those premises, and they were accompanied by McWebb, who provided the key that they used to open the door giving access to the third-floor common area. If the officers had known, or should have known, that the third floor contained two apartments before they entered the living quarters on the third floor, and thus had been aware of the error in the warrant, they would have been obligated to limit their search to McWebb's apartment. Moreover, as the officers recognized, they were required to discontinue the search of [Garrison's] apartment as soon as they discovered that there were two separate units on the third floor and therefore were put on notice of the risk that they might be in a unit erroneously included within the terms of the warrant. The officers' conduct and the limits of the search were based on the information available as the search proceeded. While the purposes justifying a police search strictly limit the permissible extent of the search, the [c]ourt has also recognized the need to allow some latitude for honest mistakes that are made by officers in the dangerous and difficult process of making arrests and executing search warrants." Id., 86–87.

Similarly, the officers in the present case limited their search to the areas for which the warrant affidavit established probable cause to believe that the items to be seized would be located. Unlike the officers in *Garrison*, however, the officers in the present case were not required to discontinue their search as soon as they discovered that there were two separate units on the third floor. First, unlike in *Garrison*, the officers in the present case were not conducting their search in a residence for which there was no probable cause to

search. Second, as we previously concluded, there was no risk of an indiscriminate search because the warrant: (1) included the correct address of the building, as indicated on the outside of the building; and (2) specifically named Satesh and the defendant. Thus, because the officers acted reasonably based on the unusual facts and circumstances of the present case, we conclude that the officers properly executed the warrant.

The judgment of the Appellate Court is reversed and the case is remanded to that court with direction to reverse the judgment of the trial court and to remand the case to that court with direction to deny the defendant's motion to suppress and for further proceedings according to law.

In this opinion the other justices concurred.

later sought to distinguish in her affidavit attached to the plaintiff's motion for reargument. We conclude that the court's denial of the plaintiff's motion for reargument was not an abuse of discretion.

The judgment is affirmed.

In this opinion the other judges concurred.

STATE OF CONNECTICUT *v.* DEOWRAJ BUDDHU (AC 20212)

Landau, Mihalakos and Daly, Js.

Syllabus

The state appealed to this court from the trial court's judgment dismissing the information charging the defendant with multiple counts of the crimes of attempt to commit forgery in the second degree and forgery in the second degree, and with the crimes of attempt to commit larceny as an accessory, larceny in the first degree as an accessory, money laundering in the second degree as an accessory, racketeering activity and conspiracy to commit racketeering activity, following the trial court's granting of the defendant's motion to suppress certain evidence seized from his residence in an apartment building pursuant to a search warrant. *Held* that the trial court properly granted the defendant's motion to suppress; the warrant's description of the place to be searched was overbroad and imprecise, and the affidavit of the police detectives who had sought the warrant and who had a duty to disclose to the issuing magistrate their knowledge that the defendant lived in a multiunit building, did not disclose that the defendant lived in a subunit of the building or that his residence did not encompass the entire building, and it did not contain words such as "apartment," "condominium," "subunit" or "unit," thereby rendering the warrant invalid for failure to satisfy the particularity requirement of the fourth amendment to the United States constitution.

Argued January 12—officially released August 14, 2001

Procedural History

Substitute information charging the defendant with 111 counts of the crime of attempt to commit forgery in the second degree, twenty-five counts of the crime of forgery in the second degree, two counts of attempt

to commit larceny as an accessory, and with one count each of the crimes of larceny in the first degree as an accessory, money laundering in the second degree as an accessory, racketeering activity and conspiracy to commit racketeering activity, brought to the Superior Court in the judicial district of New Britain, where the court, *Espinosa, J.*, granted the defendant's motion to suppress certain evidence; thereafter, the court granted the state's motion to dismiss and rendered judgment dismissing the information, from which the state, on the granting of permission, appealed to this court. *Affirmed.*

Robert J. Scheinblum, assistant state's attorney, with whom were *John M. Massameno*, senior assistant state's attorney, and, on the brief, *John M. Bailey*, chief state's attorney, and *Vernon Oliver*, deputy assistant state's attorney, for the appellant (state).

Wesley S. Spears, for the appellee (defendant).

Opinion

MIHALAKOS, J. In this criminal case, the state appeals from the judgment of the trial court dismissing the substitute information charging the defendant, Deowraj Buddhu, with 142 violations of the Penal Code.[1] At issue is the court's ruling prohibiting the state from introducing, in its case-in-chief, evidence that the police

[1] In the substitute information, the state charged the defendant with 111 counts of attempt to commit forgery in the second degree in violation of General Statutes §§ 53a-49 (a) (2) and 53a-139 (a) (3); twenty-four counts of forgery in the second degree in violation of § 53a-139 (a) (3); one count of larceny in the first degree as an accessory in violation of General Statutes §§ 53a-8 (a), 53a-119 and 53a-122; one count of forgery in the second degree in violation of § 53a-139 (a) (1); one count of money laundering in the second degree as an accessory in violation of General Statutes §§ 53a-8 (a) and 53a-277; one count of conspiracy to commit racketeering in violation of General Statutes §§ 53a-48 and 53-395; one count of racketeering in violation of § 53-395 (c); and two counts of attempt to commit larceny in the first degree as an accessory in violation of §§ 53a-8 (a), 53a-49 (a) (2), 53a-119 and 53a-122.

officers seized while executing a search warrant for the residence of the defendant and his son, Satesh Buddhu. On appeal, the state claims that the court improperly concluded that the warrant was invalid and, therefore, should not have suppressed the evidence that the police officers had seized. In support of its claim, the state asserts, inter alia, that the court improperly concluded that the warrant did not satisfy the particularity requirement of the fourth amendment to the United States constitution.[2] We disagree with that assertion and, accordingly, affirm the judgment of the trial court.[3]

The following facts and procedural history are relevant to our resolution of the state's appeal. On November 21, 1995, two Rocky Hill police detectives applied for a warrant to search the following place: "The residence of Satesh Buddhu (date of birth 2/6/74) and Deowraj S. Buddhu (date of birth 9/18/42), 958 Broad Street, Hartford, Ct. This is also the business location of Phoe-

[2] The fourth amendment to the United States constitution provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The fourth amendment is made applicable to the states through the due process clause of the fourteenth amendment. *Mapp* v. *Ohio*, 367 U.S. 643, 655, 81 S. Ct. 1684, 6 L. Ed. 2d 1081 (1961).

[3] We therefore need not address the state's remaining claims, which are as follows: (1) the court improperly rejected the issuing magistrate's conclusion that the warrant affidavit established that there was probable cause to search the residence of the defendant and his son; (2) the court improperly concluded that the police had exceeded the scope of the search authorized by the warrant; and (3) our Supreme Court should overrule *State* v. *Marsala*, 216 Conn. 150, 171, 579 A.2d 58 (1990) (en banc) (holding that the good faith exception to the exclusionary rule does not exist under Connecticut law). Regarding the last of those three claims, we note that it is not within our province to overrule the decisions of our Supreme Court; see *State* v. *Robinson*, 56 Conn. App. 794, 801, 746 A.2d 210, cert. denied, 253 Conn. 904, 753 A.2d 938 (2000); and that the state indicated in its principal brief to this court that it raised that claim to preserve it for possible review by our Supreme Court.

nix Consulting Services, operated by Deo [Buddhu]." The detectives, Henry J. Dodenhoff and Charles Hedeen, suspected that the defendant and his son were involved in a criminal enterprise that engaged in the production of counterfeit checks and United States citizenship papers. Later that day, a magistrate granted the detectives' application. On November 22, 1995, members of the Rocky Hill and Hartford police departments executed the warrant. Their search yielded evidence that incriminated the defendant and his son.

On December 21, 1998, the state filed an information that charged the defendant with 140 violations of the Penal Code. On April 26, 1999, the defendant filed a motion to suppress, seeking to preclude the state from introducing the evidence that the police had seized while executing the warrant. On June 10, 1999, the state filed the substitute information previously described. See footnote 1. Thereafter, the court conducted a suppression hearing and granted the motion to suppress. The court found that (1) the description in the warrant of the place to be searched was "overbroad" and (2) the overbreadth was due to the fact that the police officers had conducted an "unjustifiably limited investigation." Therefore, the court concluded, the warrant was invalid because it did not satisfy the particularity requirement of the fourth amendment. On October 27, 1999, the state filed a motion to dismiss the substitute information. That day, the court dismissed the case on the state's representation that the state could no longer proceed as a result of the unfavorable ruling on the motion to suppress. The court also granted the state permission to appeal. This appeal followed. Additional facts and procedural history will be provided as necessary.

Before addressing the state's claim that the court improperly concluded that the warrant did not satisfy the particularity requirement of the fourth amendment,

we set forth the appropriate standard of review. "Our standard of review of a trial court's findings and conclusions in connection with a motion to suppress is well defined. A finding of fact will not be disturbed unless it is clearly erroneous in view of the evidence and pleadings in the whole record . . . . [W]here the legal conclusions of the court are challenged, we must determine whether they are legally and logically correct and whether they find support in the facts set out in the memorandum of decision . . . ." (Internal quotation marks omitted.) *State* v. *Clark*, 255 Conn. 268, 279, 764 A.2d 1251 (2001). Additionally, we are mindful of our authority to affirm a judgment of a trial court on a dispositive alternate ground for which there is support in the trial court record. See *Hoskins* v. *Titan Value Equities Group, Inc.*, 252 Conn. 789, 794, 749 A.2d 1144 (2000).

After the suppression hearing, the court made the following factual findings. The complete address of the building named in the search warrant is 958-960 Broad Street. The building has three floors and there are apartments on each floor. Specifically, "[t]here [is] a total of six units in the building—two on each of the three floors." The defendant lived in a unit on the third floor. Each of the six units had a doorbell and a mailbox. "It is evident that the officers knew prior to obtaining the warrant that the building was a multioccupancy building." The officers also knew prior to obtaining the warrant that the defendant lived on the third floor. The state does not challenge those factual findings.

"The Warrant Clause of the Fourth Amendment *categorically prohibits* the issuance of any warrant except one 'particularly describing the place to be searched and the persons or things to be seized.' The manifest purpose of this particularity requirement was to prevent general searches. By limiting the authorization to search to the specific areas and things for which there is proba-

ble cause to search, the requirement ensures that the search will be carefully tailored to its justifications, and will not take on the character of the wide-ranging exploratory searches the Framers intended to prohibit." (Emphasis added.) *Maryland* v. *Garrison*, 480 U.S. 79, 84, 107 S. Ct. 1013, 94 L. Ed. 2d 72 (1987). The particularity requirement reflects two concerns. See *United States* v. *Nafzger*, 965 F.2d 213, 215 (7th Cir. 1992). "The first concern is the deterrence of 'general, exploratory rummaging in a person's belongings.' " Id., quoting *Andresen* v. *Maryland*, 427 U.S. 463, 480, 96 S. Ct. 2737, 49 L. Ed. 2d 627 (1976). "The second concern is that the scope of a lawful search will be limited to 'the places in which there is probable cause to believe that [the items sought] may be found.' " *United States* v. *Nafzger*, supra, 215, quoting *Maryland* v. *Garrison*, supra, 84.

"The validity of the warrant must be assessed on the basis of the information that the officers disclosed, or had a duty to discover and to disclose, to the issuing Magistrate." *Maryland* v. *Garrison*, supra, 480 U.S. 85. To conduct that assessment properly, we first must review the search warrant and the affidavit supporting the search warrant to determine what information the police officers disclosed. Second, we must review the facts established at the suppression hearing to determine what information the police officers had a duty to discover and disclose to the issuing magistrate. A warrant does not satisfy the particularity requirement of the fourth amendment if all three of the following conditions are satisfied: (1) the facts properly found at the suppression hearing establish that the search (or the seizure) authorized by the warrant was imprecise or broader than necessary; (2) the police officers failed to disclose to the issuing magistrate information that they had a duty to discover and disclose; and (3) it is reasonably probable that, but for that failure, the magistrate either would not have issued the warrant

or, instead, would have issued a warrant authorizing a search (or a seizure) that was more precise.

As previously stated, the warrant in the present case authorized the police officers to search the following place: "The residence of Satesh Buddhu (date of birth 2/6/74) and Deowraj S. Buddhu (date of birth 9/18/42), 958 Broad Street, Hartford, Ct. This is also the business location of Phoenix Consulting Services, operated by Deo [Buddhu]." After the suppression hearing, the court found that 958 Broad Street (actually 958-960 Broad Street) was a three-story building that contained two apartments on each floor. The court also found that the defendant lived on the third floor. Those findings establish that the scope of the search authorized by the warrant was imprecise because the warrant did not specify that the defendant lived in a subunit of the building.

Next, we review the affidavit submitted by Dodenhoff and Hedeen (the Rocky Hill police detectives) to assist us in determining whether they disclosed to the magistrate that the defendant lived in a subunit of the building. The affidavit does not indicate whether the structure at 958-960 Broad Street contained more than one floor. Accordingly, the affidavit does not state that the defendant lived on the third floor. It also does not indicate that the defendant's residence did not encompass the entire structure. For instance, it does not contain the word "apartment," "condominium," "subunit" or "unit." In sum, Dodenhoff and Hedeen, in their affidavit, did not even intimate that the defendant lived in a subunit of the building.

The court found that (1) the building at 958-960 Broad Street had three floors, (2) each of the building's six units had a doorbell and a mailbox, and (3) "[i]t is evident that the officers knew prior to obtaining the warrant that the building was a multioccupancy build-

ing." On the basis of those findings, we conclude that it was readily apparent that 958-960 Broad Street was a multiunit dwelling. Consequently, Dodenhoff and Hedeen had a duty to disclose to the issuing magistrate that they knew that the defendant resided in such a dwelling. The record does not establish that they did.

Had Dodenhoff and Hedeen disclosed their knowledge as required, the magistrate would have been assisted considerably in his role of determining whether the locus of the proposed search was precisely tailored and limited to places where there was probable cause to believe that the items sought might be found. Although "[s]earch warrants directed against multiple occupancy structures are generally held to be invalid where the warrant fails to describe the subunit with that degree of particularity that [in theory] precludes the search of other units within the building"; *Garrison* v. *State*, 58 Md. App. 417, 427, 473 A.2d 514 (1984), rev'd, 303 Md. 385, 494 A.2d 193 (1985), rev'd, 480 U.S. 79, 107 S. Ct. 1013, 94 L. Ed. 2d 72 (1987); it can be difficult to determine when this requirement has been satisfied, especially in close cases such as this one. For this and the foregoing reason, we conclude that it is reasonably probable that but for the officers' failure to disclose that the defendant resided in a multiunit dwelling, the magistrate would have declined to issue the warrant absent further information concerning the location of the defendant's apartment.

All three of the conditions discussed previously have been satisfied. Accordingly, we conclude that the warrant did not comply with the particularity requirement of the fourth amendment. The court's decision granting the defendant's motion to suppress was proper.

We note that there is a fine but significant distinction between our holding in the present case and this court's holding in *State* v. *Burgos*, 7 Conn. App. 265, 508 A.2d

795 (1986). In *Burgos*, the defendant claimed that the trial court improperly concluded that the search warrant for his residence satisfied the particularity requirement of the fourth amendment. Id., 266–68. The warrant at issue authorized a search of the following location: "# 76 West Avenue, Willimantic, CT, a green two story wood framed structure containing four separate apartments facing the building from West Avenue, two doors colored white are visible, entrance to 76 is gained from left side door, which has 76 in black to the left of it." (Internal quotation marks omitted.) Id., 267. Thus, the description of the place to be searched indicated that the defendant lived in a multiunit dwelling. See id. Moreover, "[i]n addition to the description recited above, the warrant direct[ed] the executing officer to the affidavit which contain[ed] numerous references to the apartment at 76 West Street as being the residence of the defendant." Id., 269. This court concluded that the warrant was sufficiently particular. Id.

In the present case, however, neither the warrant nor the affidavit indicated that the defendant lived in a multiunit dwelling. Our analysis under *Maryland* v. *Garrison*, supra, 480 U.S. 79, reveals that the police detectives were required to disclose that fact to the magistrate.

The judgment is affirmed.

In this opinion the other judges concurred.

Affidavit and Application
Search and Seizure Warrant

State of Connecticut
Superior Court

To: A Judge of The Superior court

The undersigned , being duly sworn, complains on oath that the undersigned has probable cause to believe that certain property, to wit:

All records of checking and savings account including the name of MICHAEL A. CASATI, GREGORY ROBERSON, and /or SATESH D. BUDDHU, safe deposit key(s) , records of safe deposit box(s), check writing paper, items used to manufacture and/or alter a written or printed instruments or official document, including typewriters, reproduction equipments, written records and/or notations identifying the acquisition and disbursement of fraudulently obtained money or valuables, proceeds of fraudulently obtained assets, utensils used in the manufacture of forges instruments, computer print-outs or listings, coding sheets, flow charts, manuals, notes, printer, laser printer(s), graphic plotters, records kept on floppy diskettes and' or hard drives, internal records kept on floppy disk drives, removable hard drives, internal and/or external modems, acoustic couples, pc/cpu(s) 9personal computer central processing units), crts(s) (monitor/ televison), cables, wires, software, cassette tape(s), cassette tape drive(s)cartridge disk(s), cartridge disk drive(s), cartridge tape(s), cartridge tape drive(s), ALL other items that can be used as means and instrumentalities and/or fruits of the crime of FORGERY/LARCENY

Constitutes evidence of the following offense or that a particular person participated in the commission of the offense of:
53A-122 LARCENY IN THE FIRST DEGREE
53A-139 FORGERY IN THE SECOND DEGREE

And is within or upon a certain person, place, or thing, to wit:

The residence of SATESH D. BUDDHU (D. O. B 02/06/74) and DEOWRAJ S. BUDDHU (D. O. B 09/18/42), 958 Broad Street, Hartford, CT. This is also the business location of the PHOENIX CONSULTING SERVICES operated by Deo [Buddhu].

And that the facts establishing the grounds for issuing a Search and Seizure warrant are the following:

1. That the undesigned, Detective Henry J. Dodenhoff and Detective Charles Hedeen, are members of the Rocky Hill Police Department (RHPD). The affiants have more than thirty-seven years of combined police experience, during which time have engaged in numerous investigations, surveillances, and apprehensions of persons who have engaged in illegal activity. They further state that they have personal knowledge of the facts and circumstances hereinafter related as the result of their own investigative efforts as well as the efforts of brother officers acting in conjunctions to them and form official reports.

2. That on Novemver 17, 1995, GARY E. GAUDISO, an investigator in the Protective Control Department of THE BANK OF NEW YORK of Middletown, New York; arrived at the RHPD, and reported crimes of forgery and larceny, Gary Gaudiso reported an unknown person(s) forges two (2) checks for one of THE BANK OF NEW YORK'S account holders, and subsequently negotiated the two checks. Gary Gaudisio said the negotiating of the checks resulted in THE BANK OF NEW YORK sustaining a monetary loss of approximately $58,00.65. He indicated the forgery of the checks was professional-quality, and without close inspection of said documents, the forgery was not immediately identified.

3. That Gary Gaudiso provided the RHPD with copied of the two forged checks:

A. FORGED CHECK #1

Check #00065272 from the account OF PRESIDENTIAL LIFE INSURANCE COMPANY, NYACK, NEW YORK, dated 7/31/95 the amount of the check is $8,400.65 pay to the order of GREGORY W. ROBERSON, 482 Burnside Ave., B22, East Hartford, CT 06108.

The imprint on the back of the check indicates the check was negotiated at Fleet Bank, Founders Plaza, East Hartford, CT on August 3, 1995.

It is endorsed with the signature of Gregory Roberson, with a customer identification account #93707832741.

B. FORGED CHECK #2

Check #0065273 from the account PRESIDENTIAL LIFE INSURANCE COMPANY, NYACK, NEW YORK, date 7/13/95 the amount is $50,000.00 pay to the order of MICHAEL ANTHONY CASATI.

The imprint on the back of the check indicates the was negotiated at People's Bank on August 16, 1995. It is endorsed with the signature of Michael Casati, and indicting his identification was verified.

4. That Gary Gaudisio described the inaccuracies of the forges checks. He reported the actual checks from said account identify the account holder as PRESIDENTIAL LIFE INSURANCE COMPANY, NYACK, NEW YORK, COMMISSION ACCOUNT, the check numbers are printed in red, whereas they are black in the forged documents. The check numbers on the forges checks are smaller in size than the authentic checks and sequential (check) numbers of the forged checks are approximately five thousand numbers greater than the currently used sequential numbers of the authentic checks. The signatures on forged checks are written in black, whereas the authorization signatures of an actual check are red and blue in color.

(The authorization signature s on the forged checks appear as similar to that of a authentic check).

5. That Gary Gaudisio provided copies of affidavits of HERBERT KURZ and MICHAEL OPORTO, the alleged signatures of the forges checks, describing the checks as forged documents. The documents of forgery were completed on November 1, 1995 in Rockland County, New York as part of the investigation by the Bank of New York; and which resulted in the reimbursement of the sum of the forged checks to the account of Presidential Life Insurance company.

6. That on November 20, 1995, search and Seizure Warrants were executed upon the person, residence, and vehicle of MICHAEL CASATI, (20 years old) of 24-A Robbins Lane, Rocky Hill, CT; for evidence of the crimes of LARCENY IN THE FIRST DEGREE AND FORGERY IN THE SECOND DEGREE. Through the execution of said Search and Seizure Warrants, banking records were discovered which corroborate the allegations of this investigation.

7. That on November 20, 1195, Michael Casati was interviewed concerning this investigation. During said interview Michael Casati completed an affidavit through which he acknowledge being a participation in negotiating and disbursement of the $50,000.00 check (refer to paragraph #3-B),

and an attempt to cash and disburse another check. (The second check described by Michael Casati was not discovered through this investigation prior to his interview).

8. That in his affidavit Michael Casati said he was approached by his friend, SATESH BUDDHU, who offered him a proposition to make money. In pertinent parts of his affidavit Michael Casati said:

This application consisted of this form plus 4 pages attached hereto and made part hereof.

State of Connecticut

City/Town	Date	Signature and Title of Affiant
New Britain	11/21/95	Det. Name Illegible RHPD
New Britain	11/21/95	Det. Name Illegible
Jurat	11/21/95	Name Illegible-Judge

A. I have known Satesh since High Scholl. We have known each other for about four years. Satesh graduated Rocky Hill high school before me, I think he graduated in 1992. He is 21 or 22 years old, he lives on Broad Street in Hartford, CT. He is Indian, between 5 and 5 feet tall, has a stock build, and short black hair. His father owns PHOENIX CONSULTING SERVICES, 958 Broad Street, Hartford, CT. His father works out of their home. His father's business telephone number is 247-7637. Satesh and I get together every weekend.

B. In August or September Satesh asked me if I wanted to make some money.

C. The next time Satesh talked to me about money...we were driving in Satesh's car...He asked me if I wanted to make $1,000.00.

I said yes. He said he would give me a check to deposit into my account. He said I would withdraw the money when he told me to. Satesh said at the end he would pay me $1,000.00

D. Two or three days later he came to my job... He drove me to Peoples Bank Financial Plaza in Hartford. While we were riding he gave me a check The check was made out in my name, and was for $50,000.00. I didn't ask him anything about the check. I asked him if it was OK, or if I was going to get into trouble. He said it was "completely safe."

E. I went into the bank, and Satesh stayed in the car. I deposited the check into my savings account.

F. Satesh brought me back to work...When Satesh brought me back to work, he kept my savings book.

G. About a week later Satesh called me and said the check cleared..He came by work..he brought me to the same bank. Satesh told me to withdraw about $9,000.00 or $9,500.00.

I am not sure of the amount. I went into the bank and withdrew the money. He told me it had to be cash. When I got back outside, I gave him the money. Satesh kept the bank book and brought me back to work.

H. A few days later he either returned to my work..or at my house. I don't know how many times he did it. It was three or four times. The same things happened. Satesh brought me o the bank, I withdrew the cash, gave him the cash and bank book.

State of Connecticut

City/Town	Date	Signature and Title of Affiant
New Britain	11/21/95	Det. Name Illegible RHPD
New Britain	11/21/95	Det. Name Illegible
Jurat	11/21/95	Name Illegible-Judge

I. Near the end Statesh got called awat to the National Guard. He was sent to texas. When he was called to the National guard, he gave me the bank nook. H egave me instructions. He told me to go to the bank every couple of days and withdraw less than $10,000.00. He said place the money in an envelope and write AGNANI or AGANI on the envelope, and give the envelope to his father. I gave the envelop to Satesh's father, because he told me not to give it to anyone but his father.

My savings bank book was also in the envelope, because Statesh told me to leave the bankbook in that envelope also. I have known Satesh's father for a couple of months. I met him when this thing started, and I was introduced to his father by Satesh, right before Satesh left for Texas. Satesh said somebody would then pick it up. I did just what he said to do. I repeated it until the money was out.

J. Before, I returned to the bank to get more money, I called Satesh's father at 247-7637, and I picked up the bankbook from Satesh's father. Satesh's father handed me an envelope containing the bankbook. I picked up the bankbook, went to the bank, made the withdrawal, and returned to Satesh's father; and gave him an envelope with the bankbook and money.

K. Every time I left an envelope at Satesh's house eith his father it was sealed and had the AGNANI or AGNI (I don't remember which) on it. When I received an envelope containing my bankbook, the envelope was always sealed and had MIKE written on the sealed envelope. (This happened 2 or 3 times).

L. Satesh gave me $500.00 the first or second time I withdrew some money, then he gave me $500.00 when everything was finished.

M. Once it was over Satesh didn't mention anything about then money again until a month or so ago. He called me at my home and asked me for my checking account number and what bank my checking account was in. He told me he had more money or another check for me. I told him my checking account is the Eagle Federal Checking in the Rocky Hill branch office. I gave Satesh my account number for the checking account.

N. I assume a day or two later a deposit was made into my checking account. About a week later Satech called me at home...Satesh said the check should have cleared, and for me to go and withdraw. He said there was approximately $8,000.00. I think he was going to pay me $200.00 for using my account.....I went to the Rocky Hill branch office..They told me the check did not clear. I went home and called Satesh, and I told him the check did not clear.

State of Connecticut

City/Town	Date	Signature and Title of Affiant
New Britain	11/21/95	Det. Name Illegible RHPD
New Britain	11/21/95	Det. Name Illegible
Jurat	11/21/95	Name Illegible-Judge

O. Either that afternoon or the next day, I got the check in the mail. When I got the check in the mail, I called Satesh, as he told me to.

When I called him, he came to my house and picked it up.

9. That theses affiants queried the CT. Dept. Of Motor Vehicles files and found SATESH D. BUDDHU (D.O.B 02/06/74) and DEOWRAJ S. BUDDHU (D. O. B 09/18/42) both residing at 958 Broad Street, Hartford, CT have valid Connecticut motor vehicle operator licenses. While executing the Search and Seizure warrant on the person of Michael Casati, he had a business card in his wallet for the firm PHOENIX CONSULTING SERVICES, 958 Broad Street, Hartford, CT. (accounting, tax preparation, estate & financial planning) having the telephone number 247-7637, with the name "DEO" printed on the business card.

10. Base upon the information contained herein, we, the undersigned affiants, believe probable cause exist that evidence of the crimes of FORGERY and LARCENY will be found upon within the residence and home operated business located at 958 Broad Street, Hartford, CT.

11. That based upon the training and experience of these affiants, we know it is a common practice for person(s) who engage in crimes of forgery and larceny to participate in complex schemes to commit the crime(s), and attempt to hinder the detection of their actions.

Their schemes often involve the involvement of more than one participant, and the unknowing involvement of multiple institutions. The investigative of this complaint indicates MICHAEL CASATI, GREGORY ROBERSON, SATESH D. BUDDHU [and perhaps other unidentified person(s)] participated in such a conspiracy. The conspiracy included identifying the victim account (Presidential Life Insurance Company), producing forges replicas of the Presidential Life Insurance Company checks, negotiating the forged checks at one bank. (Fleet Bank and Peoples Bank), making withdrawal against the forged checks (at Fleet and Peoples Bank), and deposit th proceeds in the other institutions to further obscure disclose of the criminal enterprise.

12. That based upon the training and experience of these affiants, we know person(s) who engaged in the manufacture of forges checks have in their possession and/or control a variety of office-type equipments to complete the forged documents. The office equipment utilized by such people include check-type paper, typewriter(s), check writer(s), computer(s), printer(s), recordings of reference materials and/or records of their accomplishments, and identification of others person(s) or businesses which are knowingly or unknowingly involved in the completion of said crimes.

State of Connecticut

City/Town	Date	Signature and Title of Affiant
New Britain	11/21/95	Det. Name Illegible RHPD
New Britain	11/21/95	Det. Name Illegible
Jurat	11/21/95	Name Illegible-Judge

13. That our police investigative training and experience has provided us with knowledge that persons who participate in white-collar- fraud-type crimes are often meticulous in maintaining records of their efforts. The people who commit such crimes oftentimes do not begin their illegal; enterprise with a large fraud as described herein, but operate in a continuing, growing enterprise. Accordingly, they tend to perfect their actions as their actions continue. In order to develop and increase their profits, they maintain records as well as supplies to advance themselves. Furthermore, in order to maintain such records from discovery, the records are maintained in a location where the perpetrator feels comfortable and protected. An area were such a perpetrator would experience such security would be their residence. Accordingly, we request the issuance of a Search and Seizure Warrant to search said person and places and seize evidence of said crimes.

State of Connecticut

City/Town	Date	Signature and Title of Affiant
New Britain	11/21/95	Det. Name Illegible RHPD

New Britain	11/21/95	Det. Name Illegible
Jurat	11/21/95	Name Illegible-Judge

Affidavit Requesting Dispensation with Requirement of Delivery
pursuant to § 54-33c, Connecticut General Statues

TO: A Judge of the Superior Court

For the reasons set forth below, the undersigned, being duly sworn, requests that the judge dispense with the requirement of C. G. S. § 54-33c that a copy of the affidavit(s) in support of the warrant be given to the owner, occupant or person named therein within forty0eight hours:

The search is part of a continuing investigation which would be adversely affected by the giving of a copy of the affidavits at such time;

and the specific details with regard to such reasons are as follows:
The search is part of a continuing investigation which would be adversely affected by the distribution of the supporting affidavit. The investigative lead may be jeopardized and evidence may be altered and/or destroyed.

State of Connecticut

City/Town	Date	Signature and Title of Affiant
New Britain	11/21/95	Det. Name Illegible RHPD
New Britain	11/21/95	Det. Name Illegible
Jurat	11/21/95	Name Illegible-Judge

SEARCH AND SEIZURE WARRANT

State of Connecticut

Superior Court

The foregoing Affidavit and Application for Search and Seizure Warrant having been presented to and been considered by the undersigned, a Judge of the Superior Court, the undersigned (a) is satisfied therefrom that grounds exist for said application and (b) finds that said affidavit establishes grounds and probable cause for the undesigned to issue this Search and Seizure Warrant, such probable cause being the following: From said affidavit, the undesigned finds that there is probable cause for the undersigned to believe that the property described in the foregoing affidavit and application is within or upon the person if any, named or described in the foregoing affidavit and application, or the place or thing, if any, described in the foregoing affidavit and application, under the conditions and circumstances set forth in the foregoing affidavit and application, and that, therefore a Search and Seizure Warrant should issue for said property.

NOW THEREFORE, by Authority if the State of Connecticut, I hereby command any Police Office of a regularly organized police department, any State Policeman; or any conservation officer, special conservcation officer or patrolman acting pursuant to C.G.S. § 26-6 to whom these presents shall come within ten days after the date of this warrant to enter into or upon and search the place or thing described in the foregoing affidavit and application, to wit:

The residence of SATESH BUDDHU (date of birth 2/6/74) and DEOWRAJ S. BUDDHU (date of birth 9/18/42), 958 Broad Street, Hartford, CT. This is also the business location of PHOENIX CONSULTING SERVICES, operated by Deo [Buddhu]

for the property described in the foregoing affidavit and application, to wit:

ALL records of checking and savings account including the name of MICHAEL A. CASATI, GREGORY ROBERSON, and /or SATESH D. BUDDHU, safe deposit key(s) , records of safe deposit box(s), check writing paper, items used to manufacture and/or alter a written or printed instruments or official document, including typewriters, reproduction equipments, written records and/or notations identifying the acquisition and disbursement of fraudulently obtained money or valuables, proceeds of fraudulently obtained assets, utensils used in the manufacture of forges instruments, computer print-outs or listings, coding sheets, flow charts, manuals, notes, printer, laser printer(s), graphic plotters, records kept on floppy diskettes and' or hard drives, internal records kept on floppy disk drives, removable hard drives, internal and/or external modems, acoustic couples, pc/cpu(s) 9personal computer central processing units), crts(s) (monitor /televison), cables, wires, software, cassette tape(s), cassette tape drive(s)cartridge disk(s), cartridge disk drive(s), cartridge tape(s), cartridge tape drive(s),

ALL other items that can be used as means and instrumentalities and/or fruits of the crime of FORGERY/LARCENY

Signed at New Britain, Connecticut on : 11/21/95(by Judge Name Illegible)

Notes of Decisions

Actions Within Section 1
Jury Verdicts 2

1. Actions Within Section
This section, relates to criminal cases, and does not require jury trial in civil libel actions, and the words "prosecution or indictment" do not mean suit or action. Gray v. Mossman (1917) 99A. 1062. 91 Conn.430.

2. Jury Verdicts
This section granting jury right to determine law and facts in libel prosecutions under directions of courts gives right to return general verdict, but still requires jury to apply facts to law as given by court. State v. Whiteside (1961) 169 A.2d 260.148 Conn. 208, certiorari denied 82 S.ct. 52,368 U.S. 830, 7 L.Ed.2d 33.

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§ 7. Security From Searches and Seizures

Sec. 7. The people shall be secure in their persons, houses, papers and possessions from unreasonable searches or seizures; and no warrants to search any place, or to seize any person or things, shall issue without describing them as nearly as my be, nor without probable cause supported by oath or affirmation